

JAN 07 2009

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Board of Vocational Nursing
and Psychiatric Technicians

**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:
EUGENE SPENCER GREENE
PO Box 72093
Los Angeles, CA 90002
Vocational Nurse License No. VN 198069

Case No. VN-2005-2034

A C C U S A T I O N

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
Accusation solely in her official capacity as the Executive Officer of the Board of Vocational
Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about January 18, 2002, the Board of Vocational Nursing and
Psychiatric Technicians (Board) issued Vocational Nurse License Number VN 198069 to Eugene
Spencer Greene (Respondent). The Vocational Nurse License was in full force and effect at all
times relevant to the charges brought herein and will expire on December 31, 2009, unless
renewed.

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1 8. Section 2878.5 of the Code states, in pertinent part:

2 "In addition to other acts constituting unprofessional conduct within the meaning
3 of this chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person
4 licensed under this chapter to do any of the following:

5 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by
6 a licensed physician and surgeon, dentist or podiatrist administer to himself or herself or furnish
7 or administer to another, any controlled substance as defined in Division 10 of the Health and
8 Safety Code, or any dangerous drug as defined in Section 4022.

9 "(b) Use any controlled substance as defined in Division 10 of the Health and
10 Safety Code, or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an
11 extent or in a manner dangerous or injurious to himself or herself, any other person, or the public,
12 or to the extent that the use impairs his or her ability to conduct with safety to the public the
13 practice authorized by his or her license."

14 **CONTROLLED SUBSTANCES**

15 9. Cocaine (including any cocaine base) is a narcotic drug according to
16 Health and Safety Code section 11019(e). It is a Schedule I controlled substance, as designated
17 in Health and Safety Code section 11054(f)(1), and a Schedule II controlled substance, as
18 designated in Health and Safety Code section 11055(b)(6). It is categorized as a dangerous drug
19 according to Business and Professions Code section 4022.

20 **COST RECOVERY**

21 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
22 request the administrative law judge to direct a licensee found to have committed a violation or
23 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
24 and enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unlawful Possession of a Controlled Substance)**

3 11. Respondent is subject to disciplinary action under section 2878,
4 subdivision (a), in conjunction with 2878.5, subdivision (a), as a result of Respondent's unlawful
5 possession of crack cocaine, as set forth below:

6 a. On or about January 29, 2008, just three months after completing a
7 Deferred Entry of Judgment drug-related program, Respondent was arrested by officers of the
8 Los Angeles County Sheriff's Department after they discovered rock cocaine (also known as
9 crack cocaine) in Respondent's vehicle during a traffic stop.¹

10 b. On or about April 19, 2006, Respondent was arrested and charged
11 with violating one misdemeanor count of violating Health and Safety Code section 11350,
12 subdivision (a) [possession of the controlled substance rock cocaine]. Due to Respondent's
13 completion of a Deferred Entry of Judgment program on or about October 29, 2007, this arrest
14 did not result in a criminal conviction. However, section 492 permits the Board to seek
15 discipline based on the underlying acts, in the interest of public protection.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Dangerous Use of a Controlled Substance)**

18 12. Respondent is subject to disciplinary action under section 2878,
19 subdivision (a), in conjunction with section 2878.5, subdivision (b), as a result of Respondent's
20 use of the controlled substance of rock cocaine in a manner that was dangerous to himself and
21 others. On or about April 23, 2008, Respondent was arrested for being under the influence of
22 rock cocaine. Respondent admitted to Los Angeles Police Department officers that he had
23 smoked some crack cocaine on the evening of his arrest. A criminal complaint was filed on June
24 17, 2008, alleging one misdemeanor count of violating Penal Code section 11550, subdivision (a)

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27 1. A criminal complaint was not filed due to a determination that the search and seizure
28 had been conducted in violation of Respondent's rights. This Accusation does not seek
criminal punishment based on Respondent's unlawful possession, but rather protection of the
public.

1 [being under the influence of crack cocaine] in the criminal proceeding entitled *The People of the*
2 *State of California v. Eugene Spencer Greene* (Super. Ct. Los Angeles County, 2008,
3 No. 8IG02448). The case is currently pending.²

4 **ADDITIONAL DISCIPLINARY CONSIDERATIONS**

5 13. As an additional disciplinary consideration, Complainant alleges that on or
6 about May 22, 2003, Respondent was issued Citation No. 03-0076-L by the Board, which alleged
7 violations of section 2878, subdivision (a) [unprofessional conduct], section 2878,
8 subdivision (b) [obtaining license by fraud or misrepresentation], section 2878, subdivision (e)
9 [making false statement on license application], and section 2878, subdivision (j) [dishonest
10 act(s)], as a result of Respondent's failure to disclose three convictions on his December 11,
11 2000 application for a vocational nurse license, even though he had signed the application under
12 penalty of perjury. Complainant refers to and incorporates all the allegations contained in
13 Citation No. 03-0076-L, as though set forth fully. The citation is now complete, and Respondent
14 has paid the assessed \$500.00 administrative fine in full.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein
17 alleged, and that following the hearing, the Board issue a decision:

18 1. Revoking or suspending Vocational Nurse License Number VN 198069,
19 issued to Respondent;

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27 2. On July 24, 2008, an arrest warrant was issued due to Respondent's failure to appear for
28 a scheduled pretrial hearing in this matter. An updated docket has been requested and this
Accusation will be amended when it is received.

1 2. Ordering Respondent to pay the Board the reasonable costs of the
2 investigation and enforcement of this case, pursuant to section 125.3;

3 3. Taking such other and further action as deemed necessary and proper.
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5 DATED: January 7, 2009
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TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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